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**OFFICE OF PETITIONS**

In re Application of  
Ron Joseph : DECISION ON APPLICATION  
Application No. 09/775,002 : FOR PATENT TERM ADJUSTMENT  
Filed: February 1, 2001 :  
Attorney Docket No. 054611-003 :  
: :  
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This is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)" filed February 10, 2005. Applicant requests that the Patent Term Adjustment indicated in the Notice of Allowance be corrected from two hundred fifty-eight (258) days to four hundred and two (402) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred and sixty-eight (268)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 7, 2005 the Notice of Allowance was mailed, with a Patent Term Adjustment (PTA) of two hundred and fifty-eight (258) days. In response, applicant timely filed the instant petition<sup>1</sup>. Patentees assert that there should not have been a reduction of one hundred and forty-four (144) days for the filing of the RCE and accompanying submissions on September 17, 2004.

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<sup>1</sup> PALM records indicate that the issue fee payment was received on February 17, 2005.

The request to correct the delay of one hundred and forty-four (144) days associated with the filing of an Information Disclosure Statement (IDS) and Request for Continued Examination (RCE) is granted. The reduction of one hundred forty-four (144) days is not warranted because the RCE and submissions (including an Amendment and Response and an Information Disclosure Statement) were filed subsequent to filing of an Appeal Brief. Accordingly, the delay of one hundred and forty-four (144) days is corrected to zero (0) days.

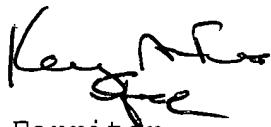
However, for the reasons set forth herein, the calculated Office delay of one hundred and thirty-four (134) days associated with "mail formal drawings required" is corrected to zero (0) days. Applicant mailed the RCE and submissions on September 17, 2004. Subsequently, the Notice of Allowance and Notice of Allowability were mailed on January 7, 2005. The mailing of the Notice of Allowance and Notice of Allowability were timely under § 1.702 (a)(2) as the notices were mailed in response to, and within four months of the filing of the RCE. Therefore, the delay of one hundred and thirty-four (134) days associated with mailing of the Notice of Allowability is corrected to zero (0) days.

In view of the above, the correct determination of PTA at the time of the mailing of the notice of allowance is two hundred and sixty-eight (268) days. The corrected PTA includes both adjustments described above.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries with regard to this matter should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272 - 3219.



Karin Ferriter  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of UPDATED Pair Screen